

**Notice of Allowability**

Application No.

10/003,864

Applicant(s)

BATRA ET AL.

Examiner

Art Unit

Ted M. Wang

2611

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 12/13/2006 amendment.2.  The allowed claim(s) is/are 1-10, 14-17 and 19-21.3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).a)  All    b)  Some\*    c)  None    of the:1.  Certified copies of the priority documents have been received.2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.5.  CORRECTED DRAWINGS (as "replacement sheets") must be submitted.(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date 3/26/2007.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 13 December 2006 has been entered.

***Terminal Disclaimer***

2. The terminal disclaimer filed on 09/28/2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 10/003,865 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Examiner Statements***

3. The examiner initialed telephone interview summary has been filed on 3/26/2007 to indicate that the Applicant has unintentionally missed claim 21 from the amended claims, dated 9/28/2006 and requests to keep the claim 21 to the instant application as amended on 4/21/2006 amendment.

***Allowable Subject Matter***

4. Claims 1-10, 14-17 and 19-21 are allowed.
5. The following is an examiner's statement of reasons for allowance.

- The prior art fails to teach a method/apparatus of Claims 1, 19 and 20 that specifically comprises the following:

-- The instant application is deemed to be directed to a non-obvious improvement over the admitted prior art of the instant application and the invention patented in Pat. No. US 6,704,346 and US 5,333,153. The improvement comprises:

With regard claim 1, "hopping from one of the good channels to another one of the good channels until the good window has been used; using the bad channel based on a hierarchy of traffic types; and hopping from one of the bad channels to another one of the bad channels until the bed window has been used." as recited in combination with other limitation in claim 1, and

With regard claims 19 and 20, "determining a ratio of the good channels to the bad channels (the ratio); assigning a first size to a good window, and a second size to a bad window, such that the ratio of the size of the good window to the size of the bad window is the same as the ratio;" as recited in combination with other limitation in Claims 19 and 20, respectively.

US 6,704,346 reference teaches all limitation except the limitation as recited in the above paragraph and good/bad window size. US 5,333,153 teaches generating good/bad window size and does not teach the limitation as recited in the above paragraph. US 6,704,346 and US 5,333,153, respectively and in combination, do

not teach the allowable subject matter as recited in the above paragraph.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted M. Wang whose telephone number is (571) 272-3053. The examiner can normally be reached on M-F, 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on 571-272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

Ted M Wang

Examiner

Art Unit 2611

Ted M. Wang

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PRIMARY EXAMINER